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BEFORE THE WATER POLLUTION CONTROL  
ADVISORY COUNCIL (WPCAC)

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TRANSCRIPT OF PROCEEDINGS

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Heard at Room 111, Metcalf Building  
1520 East Sixth Avenue  
Helena, Montana  
June 29, 2012  
10:00 a.m.

CHAIRMAN TREVOR SELCH; MEMBERS  
STEVIE NEUMAN, KAREN BUCKLIN-SANCHEZ (in person);  
KATHLEEN WILLIAMS, COREY FISHER, MICHAEL WENDLAND,  
MITCHELL LEU, and DUDE TYLER (by phone)

PREPARED BY: LAURIE CRUTCHER, RPR  
COURT REPORTER, NOTARY PUBLIC  
P.O. BOX 1192  
HELENA, MT 59624  
(406) 442-8262

WHEREUPON, the following proceedings were  
had:

\* \* \* \* \*

(Ms. Neuman not present)

CHAIRMAN SELCH: It looks like we've got everyone that we had planned on for today. With that, I guess we'll call the meeting to order here. I appreciate everyone making the time. I'm sorry I've been absent for a little while. I wasn't able to attend the last meeting, and I appreciate that Karen stepped in to fill in here for me. I want to apologize if I'm sounding funny. I'm battling a nine month sinus infection here as well.

I just got back into town, and I got a new technician I just hired, and I have some water quality probes that have to be downloaded today. She's out in the field, and she doesn't really know what she's doing, and so if I'm on my phone texting, or if I have got to step out for a second, that's what I'm doing. I'm not updating my Facebook status or anything.

So that being said, I appreciate everyone coming on today, and we'll move on to our approval of the agenda. Has everyone got a chance

1 to look through it? I just read through it this<sup>3</sup>  
2 morning.

3 MS. STEINMETZ: Anybody on the phone,  
4 for Laurie's benefit, can you please say your name  
5 before you --

6 CHAIRMAN SELCH: Yes, everyone's name on  
7 the phone.

8 MR. LEU: Mitchell Leu.

9 MR. TYLER: Dude Tyler.

10 MR. WENDLAND: Michael Wendland.

11 MR. FISHER: Corey Fisher.

12 MS. WILLIAMS: Kathleen Williams.

13 CHAIRMAN SELCH: And we've got Trevor  
14 Selch, myself, here.

15 MS. BUCKLIN-SANCHEZ: Karen Sanchez.

16 MS. STEINMETZ: Amy Steinmetz, DEQ.

17 CHAIRMAN SELCH: Has everyone had a  
18 chance to look at the agenda from the last  
19 meeting?

20 MR. TYLER: This is Dude, Trevor.  
21 Motion to approve agenda as written.

22 MS. BUCKLIN-SANCHEZ: Second. Karen  
23 Sanchez.

24 CHAIRMAN SELCH: Motion carries. Moving  
25 on to our minutes then. Has everyone had a chance

1 to look at the minutes?

2 I did notice one editorial thing under  
3 the action items on DEQ7. It says, "Mr. McNeil  
4 and answered questions." I didn't know if there  
5 was some language missing there or not. It is on  
6 the fourth line down kind of on the right hand  
7 side.

8 MS. CRIDER: It is supposed to be "and  
9 Amy," but I can make that change, though.

10 CHAIRMAN SELCH: Any other changes that  
11 anyone noticed?

12 (No response)

13 MS. BUCKLIN-SANCHEZ: Motion to approve.  
14 Karen Sanchez.

15 CHAIRMAN SELCH: Second.

16 MR. TYLER: Dude Tyler. Second.

17 MR. LEU: Mitchell Leu, second.

18 CHAIRMAN SELCH: Motion carries. Moving  
19 on, our first action item today. Todd Teegarden  
20 will be giving us the draft nutrient trading  
21 policy update.

22 So those on the phone should be logged  
23 into the "Go to meeting." Does everyone have that  
24 up on their computers, those that are logged in  
25 yes?

(Response)

MR. TEEGARDEN: Hi, everybody. Todd Teegarden with the Department. I'm in the Planning Division. I'm going to give a brief overview of kind of what I presented last time, just what a policy is, and then a few more details on the final amendments we did with our hopes to take this to the Board in July.

First of all, I guess I'd just like to recognize the folks that worked on this, and there is a few of them in the room today that can help me answer questions with their areas of expertise. But myself; Jenny Chambers from Permitting; Eric Regensburger from the Water Protection Bureau; Mark Bostrom from the Water Protection Bureau. And Claudia Massman was our legal staff, and she has since retired, so David Dennis is now working on that.

Again, trading is just a market based approach to improve water quality, and supported by EPA as a tool to meet TMDL load allocations, offset or new increased loads for municipalities and industrial facilities, or to comply with water quality based effluent limits for nutrients if there is not a TMDL in place.

6  
1 Program drivers are basically just  
2 economics. When TMDLs or load allocation are set,  
3 trading is a way to either one-on-one or make  
4 improvements, either keep improvements or improve  
5 treatments, at better cost levels.

6 Oftentimes it's pretty expensive for  
7 municipalities to treat to levels, and get the  
8 improvements, and so they can work with nonpoint  
9 source activities to make improvements at a lower  
10 cost.

11 I use this just as a general example.  
12 In the Chesapeake Bay, which was one of the first  
13 trading programs in the country, the numbers here  
14 kind of show the urban reduction practices cost  
15 \$280 to \$2,600 per pound of nitrogen removed,  
16 versus \$1.50 to \$4.40 for some ag practices. So  
17 depending on the numbers and the load allocations,  
18 it can be far cheaper to try to reduce loads other  
19 ways.

20 I show this slide as, again, an example  
21 of waste load allocations that come through a  
22 TMDL. Different watersheds have different  
23 loading, and sometimes nonpoint sources. The bulk  
24 of the loading allocation in an impaired watershed  
25 or a wastewater treatment plant could be the --

7

1 but the majority of the load. There is typically  
2 a natural component, and then point source loads,  
3 and then all of the nonpoint source loads.

4 And so based on which pie chart you have  
5 in your watershed, trading can come in different  
6 ways. If the wastewater treatment plants and the  
7 municipalities are the majority of the load,  
8 oftentimes point source to point source trading  
9 becomes viable, and something that they look at,  
10 because the point sources work together to try to  
11 reduce their load because they have a big portion  
12 of the load.

13 If the nonpoint source is the larger  
14 piece of the load, then wastewater treatment  
15 plants work with the nonpoint sources. It may be  
16 far cheaper for them to work with those folks to  
17 get reductions that are easier and cheaper, again,  
18 because municipalities, they can treat to certain  
19 loads, but the costs go way up as you try to get  
20 lower and lower in treatment.

21 So who can participate in trading?  
22 Point sources, nonpoint sources, as I mentioned,  
23 and certainly nutrient trading programs can have  
24 third party involvement, whether that be county  
25 government, brokers that just facilitate with the

1 buyers and the sellers, or you can have  
2 aggregators or bankers where they actually go out  
3 and buy and then sell themselves and make money  
4 doing it. They actually become part of the market  
5 based approach.

6 Again, Montana, we just want to open up  
7 the policy to whatever works in the specific  
8 watershed, and let the watershed groups, and  
9 permittees, and whoever, figure out what's best  
10 for them.

11 Our draft policy currently only allows  
12 for nitrogen and phosphorus trading. It is a  
13 flexible, voluntary alternative to meeting numeric  
14 criteria and TMDL loadings as was referenced in  
15 Senate Bill 367.

16 Keep in mind we intentionally made this  
17 a framework document, and was intentionally kept  
18 general so that the watersheds can move on how  
19 they see fit, and what's the best way to trade.  
20 We were very careful to not have specific trading  
21 components or drive how the market based approach  
22 would work, just because different watersheds in  
23 Montana will have different ways of doing it,  
24 should there be an interest to trading.

25 Again, our policy allows point source to



9  
1 point source trading, point source/nonpoint, and  
2 also nonpoint source to nonpoint source, which  
3 doesn't happen very often, and certainly, DEQ  
4 wouldn't be a big part of that because we don't  
5 have regulatory authority over nonpoint source  
6 loads.

7 Load credits will be calculated using  
8 the methods that we put in Appendix A or any other  
9 method that the applicant may want to use. Part  
10 of our scoping process was working through a work  
11 group, and I'll just mention those briefly in a  
12 minute.

13 But there was a lot of interest in  
14 asking the Department, "Would you quantify loads?  
15 Would you establish what trades for a buffered  
16 swale, or a riparian area, or septic loading?,"  
17 and you quantify those numbers.

18 So what we ended up doing in Appendix A  
19 was splitting these nonpoint source loads into two  
20 categories: One septic, and one other BMPs that  
21 are eligible for trading. And on the BMP side, we  
22 just linked what other states are doing, policies  
23 and examples, and our policy says you can use any  
24 of those other state examples if they're  
25 applicable to what you're doing in Montana; or

10  
1 again, you could propose your own trading method,  
2 figure out a ratio, and come talk to the  
3 Department, and we'll work with you.

4 On the septic loading, we had interest  
5 in, again, trying to quantify a number, which is  
6 very difficult again: Distance, travel time, all  
7 those things.

8 Eric Regensburger with the Department  
9 worked on a model that we've included in the draft  
10 policy that basically is an attenuation  
11 spreadsheet for both nitrogen, phosphorus, that  
12 comes out with a trading number for the delivery  
13 ratio. And the group was very pleased that we did  
14 that, again. Instead of having to hire a  
15 consultant to try to model your own little basin,  
16 we've given them a draft model to go through.

17 This is what I briefly just mentioned.  
18 The first part of Appendix A is those links to  
19 other state policies; and then our spreadsheets on  
20 the attenuation factors.

21 Here is an example that Eric put  
22 together. He is using this model in TMDL's, as  
23 well as will assist us in trading computations.  
24 And I guess just kind of glancing through there,  
25 the first one was the lower Gallatin TMDL. You

11  
1 can see there was modeled 15,000 approximately  
2 septic tanks, of which the delivery ratios using  
3 his spreadsheet came out to 1.8 to one for  
4 nitrogen, and phosphorus 6.7 to one.

5 (Ms. Neuman enters)

6 MR. TEEGARDEN: And the Bitterroot TMDL  
7 came out three and ten.

8 As you look through here, you'll see the  
9 phosphorus numbers are very high because  
10 phosphorus is attained in the soil and doesn't  
11 flow through like nitrogen does.

12 If you go down to the fifth item, we've  
13 got the Helena planning area. That was the first  
14 -- Helena had asked the Department to look at  
15 giving them some credits for hooking up septic  
16 systems. And Eric did the computation for that,  
17 and as you can see, the delivery ratio came out to  
18 2.1, and that has been included in the draft  
19 permit for the City of Helena. For every 2.1  
20 septic tanks they hook up, they will get one  
21 credit for nitrogen.

22 And then the rest of those, I guess the  
23 Dayton area, the Dayton area and the Helena  
24 examples are just test runs for septic trading.  
25 The others were related to TMDL development.

1           The public scoping we did started in  
2   2009, late 2009. There was a nutrient trading  
3   subgroup developed with people from the group that  
4   were interested, and then individuals and other  
5   folks that are interested in trading.

6           We held a workshop in April of 2011. We  
7   had subsequent meetings, response to comments. We  
8   went through two different drafts of the document  
9   and public comments. We created a link on the  
10  website to provide information for people to look  
11  at. And so again, we went through two iterations,  
12  and I think we're pretty well set, and have pretty  
13  good acceptance from the working group that we  
14  were working with.

15           With that, I'm open to questions,  
16  comments.

17           MS. BUCKLIN-SANCHEZ: Karen Sanchez.  
18  Just a comment. I know that you put a lot of work  
19  into this, and I appreciate your staff spending  
20  all this time doing this.

21           When I was reading the policy, I kept  
22  looking for specifics, like how much per pound.  
23  And I talked to like an engineer in Pennsylvania,  
24  and he said that nitrogen has been trading at  
25  \$3.50 a pound, but at the last auction was going

13  
1 up, \$4.25 cents a pound. I was reading the policy  
2 looking for that kind of specifics.

3 I think that the approach, however, that  
4 you used is great because it is general. I think  
5 that it will allow flexibility and maybe some  
6 ideas that aren't apparent now to be generated.  
7 So I like that as general, that it provides a  
8 framework.

9 MR. TEEGARDEN: Thank you. That was  
10 again our intent, and we did a lot of research and  
11 have a lot of background information sitting there  
12 if somebody wants to propose -- How would we trade  
13 with an irrigator, or someone? We have some real  
14 quick access to information that we can say, "Here  
15 is what they did in this state or this program."  
16 There is multiple trading programs out there.

17 So even though it is general, we have a  
18 lot of information on what other people are doing,  
19 and I think pretty quickly and efficiently could  
20 work with folks to move from a general to a  
21 specific project or a trading idea.

22 MR. WENDLAND: Todd, I have a question.  
23 This is Mike Wendland. Where does storm water  
24 runoff come as a pollutant, or where did that fit  
25 in, and what does it cost to try and decrease the

14

1 nitrogen and phosphorus in that storm water? Is  
2 that similar to ag lands? Because I think that's  
3 probably one of the -- it is a large contributor,  
4 and yet it doesn't seem addressed here.

5 MR. TEEGARDEN: Yes. Storm water has  
6 been a nonpoint source activity until they're  
7 moving into the permit world. And I'll maybe let  
8 Jenny just jump in on that.

9 But one of the states has a -- For any  
10 storm water project, they have a two-to-one ratio,  
11 or tell us what the trading ratio might be.  
12 Again, there hasn't been a lot of storm water  
13 trading to date, but maybe that's because they  
14 haven't been moving into the permit world.

15 MS. CHAMBERS: This is Jenny Chambers,  
16 Bureau Chief of the Water Protection Bureau.  
17 That's a great question. And like Todd mentioned,  
18 it really does depend on whether or not you're  
19 talking about a nonpoint source to a nonpoint  
20 source trade, or a nonpoint source to a point  
21 source, or like in a municipality area, it could  
22 be a point source to point source potentially.

23 So I'm just going to say like the City  
24 of Missoula is regulated under the wastewater  
25 treatment plant, but they would also be regulated

1 under their municipal separate storm sewer system  
2 under another MPDES permit.

3 So right now the way our general permits  
4 are provided for the municipalities under the  
5 storm sewer systems is kind of a benchmark  
6 monitoring to get a control of where the water is  
7 flowing, where the outfalls are located, what kind  
8 of baseline samples they're getting based upon  
9 their nutrient contribution.

10 And then as TMDLs are developed, and  
11 they get a handle on what their load allocations  
12 are, in the future as they develop better programs  
13 or practices for managing storm water, or maybe  
14 they'll treat it prior to being discharged, there  
15 could be a component where they could potentially  
16 trade above what they needed to do for their load  
17 allocation or waste allocation with a TMDL to a  
18 municipal wastewater treatment plant.

19 The nonpoint source, so like ag runoffs  
20 from storm water, would be a load allocation in a  
21 TMDL, and then, yes, there could be some practices  
22 that maybe in the future, or that we haven't  
23 thought about, or other states have done, where  
24 that could also be eligible for a trade, but that  
25 area is a little bit more gray because it's not

1 going to be as tangible based upon the  
2 contribution of the nutrients. Does that help?

3 MR. WENDLAND: Thank you very much.

4 CHAIRMAN SELCH: I've got a question.  
5 When you were talking like a trade from a point  
6 source to a nonpoint source, you're talking that  
7 basically would be, again, where you work with a  
8 watershed group to improve management practices,  
9 and then there is kind of an equation?

10 MR. TEEGARDEN: Correct.

11 CHAIRMAN SELCH: That's pretty hard to  
12 still capture and measure, so there is kind of an  
13 equation that goes into measuring how much credits  
14 you get for those management practices being  
15 implemented?

16 MR. TEEGARDEN: Correct. And depending  
17 on what that practice that is, there is typically  
18 that trading uncertainty ratio of two-to-one to  
19 five-to-one, or even higher due to that  
20 uncertainty, what is the quantifiable improvement  
21 in water quality. The more monitoring you have,  
22 the better you're going to be able to quantify,  
23 and that trading ratio can come down if you can  
24 quantify a better ratio.

25 That's exactly -- Our hope is that



17  
1 watershed groups kind of lead this effort. In  
2 some states they've either developed an aggregator  
3 system where it's marketable for private people to  
4 go out and buy and sell; other states have  
5 developed their own policy where the regulator  
6 handles the trading.

7 And we want to be involved with  
8 facilitating the trade, and certainly Jenny, in  
9 the permit, will implement any point source trades  
10 in the permit. But the nonpoint source people we  
11 hope comes from conservation districts, watershed  
12 groups, and that, so --

13 MS. CHAMBERS: Just to mention, I guess  
14 -- again, Jenny Chambers. The Helena permit will  
15 incorporate a trade on the draft permit that goes  
16 out, which is scheduled July 9th through August  
17 8th. So it will be posted on our website, and if  
18 you're interested in just reading a permit on what  
19 Karen was mentioning, trying to look for the  
20 pounds or how it's actually derived, you could  
21 read through that.

22 And WPCAC is always included on our  
23 stakeholder involvement for public notices, so if  
24 you just have questions or comments later on, feel  
25 free to give me a call on that. That's kind of a

1 separate piece, but it kind of pulls it all<sup>18</sup>  
2 together.

3 CHAIRMAN SELCH: Any more questions?  
4 Anyone on the phone have any more questions for  
5 Todd?

6 MR. WENDLAND: None from me.

7 CHAIRMAN SELCH: So the next step --  
8 This is an action item, this draft trading policy,  
9 would move it forward, would go to the BER. And  
10 this would be a full out new policy, or is this a  
11 kind of a test draft to see how it works, or how  
12 does it go forward, I guess?

13 MR. TEEGARDEN: Our intent is to  
14 hopefully go to the Board in July to initiate  
15 rulemaking. There is going to be a real simple  
16 rules put in 17.30 that basically would reference  
17 the policy. And so yes, initiating rulemaking in  
18 July, then we'd have the public hearing and public  
19 comment period on both simple rule, basically just  
20 describing, "The Department has adopted a policy,  
21 and the policy is," a stand alone document.

22 And it's certainly our intent to see  
23 this policy evolve as interest comes, and/or we  
24 see changes are needed to it, but that's our plan.

25 CHAIRMAN SELCH: Okay.

1 MS. BUCKLIN-SANCHEZ: This is Karen  
2 Sanchez. Todd, I have a question. As you go  
3 through the rulemaking process and the public  
4 comment period, do you anticipate certain types of  
5 comments? Can you tell right now what types of  
6 comments you're going to be getting?

7 MR. TEEGARDEN: I don't think we'll have  
8 a lot of comments. It is hard to predict. For  
9 those people that all of sudden they see it on the  
10 Board agenda, and the opportunity, so maybe there  
11 will be more than I think. But certainly with  
12 that two years of scoping through the Nutrient  
13 Work Group, and a lot of the cities and towns, a  
14 lot of consultants, were all in on that work  
15 group. We had 30 some people in the work group  
16 either tapped in on the phone or attended the  
17 meetings.

18 So I guess I think we've really parsed  
19 out and got a lot of comments from national  
20 experts, consultants, as well as local folks,  
21 cities and towns, and interested, like I say,  
22 consultants. So I don't think there is going to  
23 be a large amount of comments, but we'll have to  
24 see.

25 MS. BUCKLIN-SANCHEZ: Thank you.

1 CHAIRMAN SELCH: Well, I guess I'm<sup>20</sup>  
2 trying to think how we could phrase a motion here  
3 to approve the draft nutrient trading policy as  
4 described.

5 MS. BUCKLIN-SANCHEZ: This is Karen. If  
6 there is no other comments, I'll go ahead and make  
7 a motion that the WPCAC recommend proceeding with  
8 the nutrient trading policy adoption and  
9 rulemaking process through the Board of  
10 Environmental Review.

11 MS. NEUMAN: Second.

12 CHAIRMAN SELCH: Seconded by Stevie.  
13 Any other comments?

14 (No response)

15 CHAIRMAN SELCH: Hearing none, all those  
16 in favor.

17 (Response)

18 CHAIRMAN SELCH: Opposed.

19 (No response)

20 CHAIRMAN SELCH: Motion carries.

21 Thanks, Todd.

22 MR. TEEGARDEN: Thank you.

23 CHAIRMAN SELCH: Our next action item is  
24 an MPDES rule package, and we have Tom Reid here  
25 to present to us today.

1           MR. REID: Good morning, members of the  
2 Council. My name is Tom Reid, and I'm with the  
3 Water Protection Bureau of the Department of  
4 Environmental Quality. And we come today asking  
5 for, again, a recommendation from the Council to  
6 proceed with rulemaking at the July Board of  
7 Environmental Review for this proposed amendment  
8 to Subchapter 13.

9           I believe everybody received a copy of  
10 those in their package, and I apologize for the  
11 complexity of them. There is a lot of editing.  
12 Some of these rules haven't been revised or  
13 updated in quite a few years or quite a few  
14 decades, so we have to go back and correct, put  
15 them in the new format at the Secretary of State's  
16 office. We have to eliminate double earmarks, and  
17 then we have to make them general neutral. So  
18 some of that, I'm not going to go into any detail.  
19 What I'd like to do is kind of just give you an  
20 overview of the rule package, and then answer any  
21 questions that you might have.

22           The MPDES rules are found in four  
23 subchapters: Subchapter 11 which is storm water;  
24 12, which is effluent standards and limitations --  
25 which we went through rulemaking and completed

22  
1 rulemaking package last year, 2011, updating  
2 Subchapter 12. The current rule package is in  
3 Subchapter 13, which is the core of the MPDES  
4 program; and then Subchapter 14 is pretreatment.

5 So those four subchapters together  
6 constitute the MPDES program in Montana, which I  
7 might add the Department was delegated in 1974 to  
8 implement the National Pollutant Discharge  
9 Elimination System, the NPDES program, so these  
10 rules follow the federal rules very closely. I'll  
11 point that out where we do differ in a few areas  
12 as we get into those areas.

13 So we will be probably coming before the  
14 Water Pollution Control Advisory Council and Board  
15 over the next year or so as we update Subchapter  
16 13. So this is Phase 1 of that rule package.

17 The next package will update the CAFO  
18 rules in response to the 2008 EPA CAFO rules, and  
19 several years of litigation that ensued after that  
20 update. A lot of these rules are in litigation  
21 for a period of decades before they're resolved,  
22 and then we adopt them, so usually we adopt rules  
23 after the federal litigation is over.

24 So there are four rules that are being  
25 updated. The first is Definitions in 1304. I'm

23  
1 not going to -- Unless there is any specific  
2 questions on the definitions, these are just  
3 definitions that are used throughout the  
4 subchapter, and we need them to define those terms  
5 or reference them where they're defined in other  
6 subchapters or in statute.

7 So moving on to Page 3 in your rule  
8 package, draft proposed rule package, 1310 are  
9 permit exclusions, and a lot of this is just  
10 reformatting and getting the permit exclusions in  
11 the correct format.

12 The only real new addition to this rule  
13 is there in number what is now (g),  
14 1310(1)(g), which is to clarify that water  
15 transfers are not subject to requirements under  
16 the Federal Clean Water Act or MPDES permits.

17 EPA put that rule in the federal rules  
18 as a result of a court case down in Florida, and  
19 basically if you transfer water from one water  
20 body to another water body, that water does not  
21 require an MPDES permit even if it has pollutants  
22 in it, unless you introduce pollutants through an  
23 intervening use. So that's the substance of 1310.

24 So if there is any questions as we go  
25 through these, I'm happy to answer them.

1 1322 --

2 MR. LEU: This is Mitchell Leu. Would  
3 that include like groundwater into surface water?

4 MR. REID: Currently the statute in  
5 75-5-401 prohibits -- It says a permit is not  
6 necessary for the discharge of groundwater to  
7 surface water, provided that that groundwater does  
8 not contain a waste as defined in the statute,  
9 cause pollution, or I think the third condition is  
10 cause degradation. So that is already addressed  
11 in statute.

12 So normally we don't require -- I should  
13 say consistently we don't require a permit for a  
14 discharge of groundwater to surface water. Now,  
15 the exception would be something like coal bed  
16 methane, in which water extracted from groundwater  
17 is part of the industrial process to separate the  
18 produced water, which is the water, and then  
19 separate the gas or the oil from that.

20 MR. LEU: That's what I was thinking.

21 MR. REID: These are still subject to  
22 federal effluent limit guidelines, and that has  
23 been through the Court, and CBM water is defined  
24 as a waste.

25 MR. LEU: Thank you.



1 MS. BUCKLIN-SANCHEZ: I have a similar  
2 question to Mitchell's. This is Karen Sanchez.  
3 When I was reading this, I was thinking about heat  
4 pumps. Does that apply here?

5 MR. REID: Heat pumps are totally  
6 separate. Heat is defined as a pollutant in both  
7 these rules and under the Federal Clean Water Act.  
8 So anytime heat is discharged to surface water, it  
9 requires an MPDES permit, Yes.

10 MS. BUCKLIN-SANCHEZ: Thank you.

11 MR. REID: And that could be through a  
12 closed loop or an open loop. We don't require a  
13 groundwater discharge permit if heat is  
14 transferred to ground.

15 Any other questions on 1310?

16 (No response)

17 MR. REID: The bulk of the rest of this  
18 rule package is under 1322, which is application  
19 requirements. And under the MPDES program, we  
20 have different ways people can apply for a permit.  
21 All these applications, these seven different  
22 application forms that we use follow the federal  
23 forms and federal rules.

24 The other way is a general permit, and  
25 that's called notice of intent, and these rules do

26

1 not affect an applicant that is applying for  
2 coverage under a general permit using a notice of  
3 intent. So these are application requirements for  
4 individual MPDES permits, and there are seven  
5 different forms. And most of those have to do  
6 with the discharge of waste. One has to do with  
7 the cooling water intake structures.

8 EPA has more because EPA administers  
9 under the Clean Water Act more programs like  
10 sludge, and we are not delegated for that, so  
11 we're not incorporating or adopting those rules  
12 for those forms.

13 In a nutshell, the seven different forms  
14 beginning on page -- Well, it's kind of outlined  
15 there on Page 4 under 1322(b). Form 1 is a  
16 general information form. It is required for all  
17 applicants except for POTW's. We refer to these  
18 forms as Form 1, Form 2, 2C, 2A, 2B.

19 So Form 1 is required for industrial and  
20 CAFOs, everybody except for POTWs, storm water  
21 dischargers, and it provides basic information on  
22 who owns the facility, where the facility is  
23 located. Form 1 also directs the applicant --

24 A facility may have multiple -- As a  
25 matter of fact it's quite common that an

1 industrial facility will have storm water  
2 discharge out of one location or one outfall, and  
3 then processed wastewater out of another outfall,  
4 and then maybe non-processed cooling water out of  
5 another outfall. So you would submit Form 1 in  
6 addition to all the application forms that are  
7 applicable.

8 So the first form begins on -- Well, the  
9 requirements for Form 1 began on Page 5 under No.  
10 6, Paragraph 6. "All applicants for MPDES permits  
11 other than POTWs," and this rule clarifies that  
12 because in the past that hasn't been clear.

13 I'm not going to go through all these  
14 application requirements. It is basically a big  
15 list in the form of a rule, and so if there is any  
16 questions, I'd be happy to address those.

17 The next one, which begins on Page 2C,  
18 7; 8 is on Page 9, and that's for the discharge of  
19 non-processed wastewater. That is water that does  
20 not come in contact with waste product -- raw  
21 product, intermediate product, waste product,  
22 byproducts, or finished products at a  
23 manufacturing or commercial site. So that's on  
24 Page 9, 2E.

25 Page 11, No. 10, is Form 2D, which is

28

1 for new manufacturing and commercial facilities.  
2 And then also on Page 11 is a whole new section.  
3 These sections, those sections that I just  
4 discussed have been updated; but 2F is storm  
5 water, and that's in the No. 11 -- starts on Page  
6 11.

7 So those are the permit application  
8 requirements for individual storm water permit  
9 applications. So now that's all in the rule. And  
10 again, all these follow the federal rules fairly  
11 closely.

12 No. 12 is for POTW's. We need to update  
13 that because we only had a partial of that rule,  
14 so this is the application requirements for  
15 application Form 2A. And we've been using Form 2A  
16 since about 2000, so these really don't change  
17 what a POTW is going to have to require. They've  
18 always been required to submit this information on  
19 those application forms.

20 We're also putting in the application  
21 requirement for CAFOs, Form 2B. And so that's it  
22 for the application forms.

23 A couple areas where we differ from the  
24 federal rules is that we have put in on Page 9 and  
25 10 for new industrial dischargers, and new

1 non-processed wastewater dischargers, a  
2 requirement that they provide information for  
3 parameters for which the Board has adopted water  
4 quality standards.

5 The federal NPDES program concentrates  
6 primarily on priority pollutants, and the Board  
7 has adopted standards for a number of parameters  
8 that are not priority pollutants, and the classic  
9 example for that is EC and SAR over in the Tongue  
10 and Powder River.

11 In theory, on the previous rules, we  
12 could not request an applicant, a new discharger,  
13 to provide that information, so these rules will  
14 clarify that if the Board has adopted a standard  
15 for EC and SAR, or some other parameter that  
16 they've adopted a standard for, that a new  
17 discharger would have to provide an estimate of  
18 the effluent quality for that parameter, for those  
19 that are required to provide quantitative  
20 information on pollutants. CAFOs are not. Storm  
21 water dischargers may or may not, depending on the  
22 nature of the storm water.

23 The only other differences where we  
24 deviate somewhat from the federal rules is for our  
25 whole effluent toxicity, dilution ratios. EPA

1 requires acute testing at a thousand to one  
2 dilution ratio.

3           Region 8 states, since we've adopted a  
4 common WET policy in 1987, have used 100-to-one  
5 ratio for acute, ten-to-one to 100-to-one for  
6 acute or chronic, and less than ten-to-one for  
7 chronic. Those are requirements that differ  
8 somewhat in Region 8 relative to federal national  
9 regulations just due to the nature of the water  
10 that we have here, our individual State  
11 regulations.

12           Along with the application requirements,  
13 we're deleting -- Part of the application  
14 requirements under the Federal Clean Water Act are  
15 requirements for variances, variances from certain  
16 water quality standards. A lot of those variance  
17 procedures are now obsolete. EPA has deleted  
18 them.

19           So on Page 22 and 23, we are deleting  
20 some of the variance procedures that an Applicant,  
21 either a non-POTW in 13 or a POTW in Paragraph 14,  
22 can apply for because those time frames and those  
23 provisions were applicable in 1977 through 1979.  
24 They're no longer applicable. So again, some more  
25 house cleaning.

1 I think that's about it, unless you have  
2 any questions. I'd be happy to answer any  
3 questions.

4 MS. BUCKLIN-SANCHEZ: Karen Sanchez  
5 here. I have a question for you. What is the  
6 optimum interval of housecleaning or housekeeping  
7 for rules so that you can kind of keep them swept  
8 up to date?

9 MR. REID: That's a good question. I  
10 don't know if there is an optimum. Some of these  
11 rules haven't changed at all since 1979. Some of  
12 them do. We incorporate about 75 to 90 percent of  
13 the federal rules by reference, so we just  
14 incorporate a very small piece of the federal  
15 rules that are required to run the MPDES program.

16 We do that simply because the federal  
17 rules have big sections that have been vacated by  
18 Court decisions, so it's very difficult, if you're  
19 using those rules -- EPA doesn't take that out  
20 when a Court has vacated a rule. So it is very  
21 confusing to be reading along, and then realize  
22 that all those application requirements were  
23 vacated back in 2005.

24 These I think are complete, and  
25 incorporate the federal rules that haven't been

1 vacated in the last five years. So whenever there  
2 is a major change in federal rule that isn't  
3 controversial, there is no sense adopting a rule  
4 if it is being challenged in court.

5 The CAFO rules are a classic example.  
6 That was promulgated in 2003. It updated the 1979  
7 rule. It has been in and out of court until 2012.  
8 So we adopted part of it. Then some of that was  
9 vacated. It's gone back and forth. So that's why  
10 we dropped CAFOs out of this rule package because  
11 we're still trying to figure out exactly what  
12 constitutes a CAFO rule right now.

13 March 2012 was the last Federal Court  
14 ruling on that rule, so now it's kind of a clearer  
15 package on what we deal with CAFOs.

16 So I don't know if there is a good  
17 answer. We try to keep them updated. It's like  
18 storm water. We did storm water. We did CAFO,  
19 but now we have to do it again, based on all of  
20 the litigation that's gone forward on CAFOs.

21 CHAIRMAN SELCH: Any questions from  
22 anyone on the phone?

23 (No response)

24 CHAIRMAN SELCH: Is there any members of  
25 the public that have any questions?



1 (No response)

2 CHAIRMAN SELCH: I don't see anyone.

3 Last chance. So I guess you're looking for a  
4 recommendation to proceed with your rulemaking on  
5 Subchapter 13.

6 MR. REID: That's correct.

7 MR. TYLER: This is Dude. So moved, if  
8 that's enough for you, Tom.

9 MR. REID: I think so.

10 MS. BUCKLIN-SANCHEZ: I'll second the  
11 motion. This is Karen Sanchez.

12 CHAIRMAN SELCH: Any discussion?

13 (No response)

14 CHAIRMAN SELCH: Hearing none, all in  
15 favor.

16 (Response)

17 CHAIRMAN SELCH: Opposed.

18 (No response)

19 CHAIRMAN SELCH: Motion passes. Thanks,  
20 Tom.

21 It looks like we're a little ahead of  
22 schedule, which is never a bad thing. We had a  
23 break scheduled, but maybe if Terry is here, we  
24 might just move on to our first briefing item.

25 MR. CAMPBELL: For the record, my name

1 is Terry Campbell, and I work in the Water  
2 Pollution Control State Revolving Fund Program.  
3 I'm an engineer within that program, and I've been  
4 working for the past several years on our reuse  
5 rules and regulations that we have updated.

6 We've had reuse standards in place for  
7 many, many years, and we've done land application  
8 of wastewater effluent for a long time. The new  
9 rules, as you were briefed previously a couple of  
10 board meetings ago and over the last couple years,  
11 are going to greatly expand the capabilities of  
12 people to use reclaimed water for various  
13 purposes.

14 And at the end of the last council  
15 meeting, if you remember, there was a question  
16 after we had left the floor as to what outreach  
17 efforts the Department had undertaken to get this  
18 information out to the public and interested  
19 parties, so I wanted to come back today and offer  
20 an explanation of what kind of outreach efforts we  
21 have undertaken, for the Council's benefit.

22 So the first thing that I wanted to  
23 mention, I guess there were several councils and  
24 groups that we have met with. George Mathieus and  
25 Mike Suplee both gave presentations at the

1 Environmental Quality Council meeting on two  
2 separate occasions, where they talked about the  
3 entire nutrient strategy. And as part of that  
4 nutrient reduction strategy, the effluent reuse  
5 package was discussed at those meetings. So there  
6 were two separate Environmental Quality Council  
7 meetings that we attended and presented at.

8 There was an appearance at the Interim  
9 Water Policy Committee meeting about six months  
10 ago, where the same briefing was given. The same  
11 outline of the effluent reuse standards that we  
12 were working on at the time were also presented at  
13 that Interim Policy meeting.

14 We've presented this information I guess  
15 at least four times now at the WPCAC Council  
16 meetings, starting -- The first year we came to  
17 you guys I think was in 2008, believe it or not.  
18 We started this process a long, long time ago, and  
19 so we've actually tried to update you each time  
20 that we've gone forward with changes or  
21 modifications to this reuse package. So that was  
22 our efforts here.

23 We have thoroughly presented and  
24 discussed this whole nutrient issue with the  
25 Nutrient Trading Policy that Todd Teegarden is

1 involved with, and I know Todd has presented the  
2 reuse alternative as part of those discussions  
3 with the Nutrient Trading Work Group. We have  
4 solicited their input and comment through that  
5 process.

6 It's twice been presented now to the  
7 Board of Environmental Review. We gave them a  
8 briefing initially. And then the last time we  
9 went to the Board of Environmental Review, we  
10 asked for their authority to go forward with  
11 rulemaking.

12 That's the status that we're at right  
13 now. We're currently out for hearings. Notice of  
14 Hearing has been published. The rules are  
15 actually available on line via a link to our  
16 website. The DEQ2 revisions are where the reuse  
17 standards are contained, primarily in Chapter 121  
18 and Appendix B, and those are available to the  
19 public.

20 We did a mass mailing just about two  
21 weeks ago, or about a week ago, I guess. We  
22 kicked out a mailing of 280 notices. We copied  
23 all of the Administrative Rule changes, and then  
24 notified people where they can access the DEQ2  
25 revisions.

1           So we expect we'll get a lot of input.  
2     There are some controversial components to this  
3     package, as you're aware, and so we expect to get  
4     some feedback from folks as to how they want us to  
5     proceed forward with that, and we anticipate it  
6     will take us awhile to respond to those comments.

7           We have also gone out to some of the  
8     larger consultant groups in the State of Montana,  
9     CH2M Hill, Robert Peccia and Associates, Great  
10    West Engineering, Morrison-Maierle, HDR and CDM,  
11    and asked for their direct input in the rulemaking  
12    package.

13           We have received some comments as long  
14    ago as 18 months that we have incorporated into  
15    the document that's out there for hearing at this  
16    point.

17           So we feel pretty comfortable that we've  
18    reached out to the groups that are primarily going  
19    to be interested in this, and we've done an  
20    internal review here within the agency. We've  
21    taken the input from the Permitting shop and  
22    incorporated that into the revisions that we've  
23    made.

24           So with that, I just wanted to come back  
25    and present that information to you so you're

1     aware that we have a fairly extensive outreach  
2     effort underway before adopting these rules.

3             And the other thing I think that's key  
4     to note about this rule package is it's not  
5     unique. There are many other states doing a very  
6     similar type of an approach to effluent reuse.  
7     The only thing that's unique in this package is  
8     the A-1 and B-1 criteria that we established for  
9     effluent water quality, and in those cases, that  
10    simply was done because of our nondegradation  
11    statutes here in Montana. That's the only really  
12    unique characteristic in this entire package in  
13    Montana versus many of the other states that are  
14    doing effluent reuse.

15            With that, I'll open the floor for any  
16    further questions and feedback. And all I really  
17    came to do today was summarize it for you.

18            MS. NEUMAN: Stevie Neuman. My question  
19    would be: Do we have an organization or business  
20    in Montana that is doing some wastewater reuse,  
21    where people can go and see for themselves?

22            MR. CAMPBELL: We have permitted  
23    approximately 60 facilities to do effluent reuse  
24    to this point. We don't have any doing any highly  
25    advanced effluent reuse.

1           We have one pilot study project that's  
2 ongoing at Big Sky where they made snow with the  
3 effluent this last winter with a snow making  
4 machine. But it's a pilot study, so they're  
5 actually capturing that snow melt and running it  
6 back into an effluent pond.

7           And the reason for that particular  
8 project was to see what the efficacy of making  
9 snow would be with effluent reuse for storage  
10 options in lieu of discharging to groundwater only  
11 in the summertime. They're in a situation where  
12 they can't discharge in the winter, so this would  
13 be a storage mechanism for them for future growth.

14           That's a fairly unique effluent reuse  
15 project that's ongoing, and so the information  
16 from that pilot facility will be gathered soon,  
17 and we'll be evaluating that.

18           MS. NEUMAN: Any agricultural?

19           MR. CAMPBELL: There's a lot of  
20 agricultural applications. There's about fifty.  
21 We could certainly provide you with a list.

22           MS. NEUMAN: That would be interesting.

23           MR. CAMPBELL: They're mostly small  
24 communities that are in agricultural areas, and  
25 they generally have a contract arrangement with a

1 private landowner with a center pivot system, and  
2 they land apply the effluent through a center  
3 pivot to an agricultural crop, like hay grass or  
4 some other type of innocuous crop of that nature.  
5 So those are the typical systems.

6 We also have six golf courses that  
7 irrigate with effluent, and those generally  
8 involve disinfection, so the standards are a  
9 little tighter for golf course applications.

10 There are two silviculture operations in  
11 Montana where we actually irrigate tree farms.  
12 One is a native forest species, and the other one  
13 is a hybrid Poplar, and that's a pilot project  
14 facility at the Missoula waste water plant. That  
15 would be a very interesting one for somebody to  
16 visit.

17 MS. NEUMAN: So I'd just contact you for  
18 the list?

19 MR. CAMPBELL: This would be fine.

20 MS. NEUMAN: Okay. Thank you.

21 CHAIRMAN SELCH: Is anyone else on the  
22 phone interested in that list? We could maybe  
23 post something on the site. I'd be interested in  
24 seeing that.

25 MS. NEUMAN: I think people need to know



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1     about it, and if they're willing to share the  
2     business that they're doing with the public, that  
3     would be --

4             MR. CAMPBELL:   We'll get that to you  
5     through Amy, make that available to you.

6             CHAIRMAN SELCH:   How does Montana  
7     compare to other states?   Are we kind of ahead of  
8     the curve, is it kind of the western states that  
9     have water limited, or is more where populations  
10    are higher?

11            MR. CAMPBELL:   It's primarily the  
12    southwestern states that are ahead of the curve.  
13    We are behind the curve somewhat with the  
14    rulemaking process with reuse issues.   Where there  
15    is really high water demand and very low quantity  
16    is primarily where reuse has taken off.

17            However, Florida is really big into  
18    water reuse, and in their case, it's more to do  
19    with effluent quality.   They have driven their  
20    reuse to much, much higher treatment standards  
21    than a lot of the other portions of the country.

22            Most of the discharge in Florida occurs  
23    to groundwater, and so they were concerned with  
24    groundwater contamination issues, and so they're  
25    leading the country with studies on pathogens and

42  
1 viruses and those types of things in effluent  
2 reuse, which is very interesting. But yes,  
3 primarily it's in the water deprived states in the  
4 southwest.

5 California is the leader in the country.  
6 They established Title 22 standards 25 years ago,  
7 which are their standards for effluent reuse, and  
8 then they continue to revamp those as they have  
9 learned over the years. Everybody else has pretty  
10 much followed suit with what they had developed  
11 early on.

12 EPA has guidance information on effluent  
13 reuse. They have not published standards or  
14 regulations on effluent reuse to date, and so  
15 we've utilized a lot of their guidance  
16 information, but they have not come forward with a  
17 national standard, which makes it a little bit  
18 complicated.

19 MS. BUCKLIN-SANCHEZ: Karen Sanchez.  
20 Terry, I have a question for you. Is there a way  
21 to see the comments, the public comments that you  
22 get, or --

23 MR. CAMPBELL: I believe they probably  
24 do get posted at some point. Todd, maybe you  
25 could --

1           MR. TEEGARDEN: Yes, they will. Just an  
2 update. The hearing on the reuse is going to  
3 happen at the next Board meeting. They decided to  
4 hear the comment period, the Board themselves,  
5 because they thought there would be enough  
6 interest in this. So the comment period is now  
7 open. It will be open for about 45 days, with the  
8 hearing coming July 22nd. But certainly after  
9 that, when we get comments, our response to those  
10 will be posted on the BER website.

11           MS. BUCKLIN-SANCHEZ: I'm glad to hear  
12 that. I'm just curious. I would assume from the  
13 -- I was thinking from the consulting engineers,  
14 from the small communities, from the general  
15 public, and I don't know from what other groups,  
16 but I would assume everybody would have different  
17 kinds of comments and questions perhaps.

18           MR. CAMPBELL: Yes, I think so. Most of  
19 the people we've talked with so far have been  
20 highly in support of this. Very few negative  
21 comments or feedback that way.

22           The water rights issue probably is the  
23 most complicating factor that came up during the  
24 implementation of the House Bill that we had to  
25 achieve in order to implement these standards. So

1 now there is a complication that an applicant has  
2 to get a water right secured prior to coming to us  
3 for review and approval of an effluent reuse  
4 project.

5           However, we have reached a pretty good  
6 agreement, inter-department agreement with DNRC,  
7 to make that a pretty efficient process for most  
8 people, but in the event that they do have to  
9 actually secure a water right, that could actually  
10 delay a project for a fairly substantial amount of  
11 time. So that's probably the one negative thing  
12 that I think has come out of this process so far.  
13 I don't know if it is negative. It is important.  
14 It needs to be taken care of.

15           MR. WENDLAND: Terry, that brings up a  
16 question. This is Mike Wendland. Where do they  
17 get the water rights from? Who do they get the  
18 water rights from?

19           MR. CAMPBELL: It's an interesting  
20 question. In many cases, these communities  
21 currently discharge to a stream segment or  
22 something, and in many cases that discharge  
23 sustains the flow in those streams.

24           And so in some cases there are  
25 downstream water users that have a prior water

1 right, for example, an irrigator that was there  
2 before the community, or has a water right that is  
3 older than the community's water right. In those  
4 cases, they could actually be denied an  
5 application to take that water out of the stream  
6 and put into a reuse project somewhere else, based  
7 on the water right issue.

8 That's fairly typical of what's happened  
9 across the western part of the country with water  
10 rights on reuse projects. It hasn't come up yet.  
11 We have not run into that issue where a community  
12 has been denied an application, but we expect at  
13 some point it probably will.

14 MR. WENDLAND: I guess my question has  
15 to do more with, for instance, if a town is using  
16 groundwater, and it is discharged into evaporation  
17 pits, and they irrigate out of those evaporation  
18 pits, is that an issue for a water right?

19 MR. CAMPBELL: It could be. There could  
20 be a groundwater recharge issue, but not very  
21 likely. In a closed basin situation, for example,  
22 that might be a complicating factor.

23 We don't anticipate a lot of issues with  
24 the groundwater rights in Montana, but you never  
25 know. It is not my area of expertise, but I've

1 had enough communication with DNRC to recognize  
2 how complicated it gets.

3 MR. LaVIGNE: Paul LaVigne here with  
4 DEQ.

5 One of the things that's come out in our  
6 discussions with DNRC on water rights on these  
7 types of system is that primarily DNRC's position  
8 on this is that municipal wastewater is considered  
9 waste, and as long as DEQ's approval of this  
10 system -- or let me rephrase that.

11 If spray irrigation is an approved part  
12 of treatment approved by DEQ, then DNRC's position  
13 is that it is considered waste and the water  
14 rights issue doesn't apply. But like Terry says,  
15 this hasn't gone to court yet. It is liable to at  
16 some point. But primarily they seem to be on  
17 board with this, and they consider our approval to  
18 be enough to satisfy water rights issues until it  
19 gets challenged.

20 MR. WENDLAND: Thank you very much.  
21 That was a good explanation, and helped me out.

22 CHAIRMAN SELCH: Any other questions  
23 from anyone on the phone or here in Helena?

24 MS. NEUMAN: Stevie Neuman. I just  
25 appreciate the many times that you have come

1 forward.

2 MR. CAMPBELL: It's a very complicated  
3 issue. You're welcome.

4 MS. NEUMAN: We appreciate all of those  
5 times of meeting with us all, educating us on --

6 MR. CAMPBELL: You're very welcome. It  
7 is a hard issue to really get your hands around.  
8 It took me years to really understand all the  
9 complexities that are involved. So certainly it  
10 requires a lot of public outreach. We appreciate  
11 that.

12 CHAIRMAN SELCH: Thanks, Terry. It  
13 looks like we just have one more briefing item on  
14 the agenda. I'm open to suggestion. Let's take a  
15 five minute break and get set up for the necessary  
16 presentation here, and we'll get going here again  
17 at ten after eleven.

18 (Recess taken)

19 CHAIRMAN SELCH: We'll get started on  
20 our last presentation, and I think that Paul  
21 LaVigne will be up first here.

22 MR. LaVIGNE: Good morning. I'm Paul  
23 LaVigne With the Water Pollution Control State  
24 Revolving Fund.

25 Well, starting last summer we just

1 started hearing rumors about all the crazy stuff  
2 going on in eastern Montana, and although we tried  
3 to get out there last fall, we didn't get to it.  
4 So although they didn't have much winter, we kind  
5 of waited until spring.

6 And then I went out there with another  
7 engineer, our operations specialist, to just kind  
8 of look around and try to visit as many  
9 communities as we could, and it's so far out there  
10 that we decided to stay a week. So we did a  
11 little tour the first part of April, and like I  
12 say, just tried to get a status report primarily  
13 in terms of municipal wastewater treatment  
14 facilities, what was going on out there.

15 So we wanted to look at the physical  
16 capacity, the physical condition, the capacity of  
17 these systems, as best we could, in terms of not  
18 just the physical infrastructure, but also just  
19 financially where these community were at in a  
20 general sense, and look at the probability of any  
21 growth that might be occurring out there as it  
22 relates to capacity of these systems; and then  
23 offering technical assistance if we could.

24 Most of these systems are really pretty  
25 basic systems, and so there wasn't a lot of



1 technical assistance we could offer at the time,  
2 but as we discover problems, and communities move  
3 forward, we found it very important to kind of  
4 hold their hand and walk through some of the  
5 planning and design issues with these communities.

6 So we've been working quite a bit with  
7 Sidney, for example, since our little tour out  
8 there. So we really just wanted to see how bad  
9 the problem is compared to the rumors that we had  
10 heard.

11 That is Sidney's IP cell, which is 39  
12 acres. It is an old cell that essentially leaks,  
13 but let me just kind of move forward. And my  
14 presentation is really pretty brief. Here is the  
15 communities we visited, so we did 22 communities  
16 from Glendive to Circle; went down to Baker. So  
17 primarily most of the activity is centered around  
18 Williston.

19 So then I just kind of went through the  
20 summary reports, and in my opinion, there is three  
21 categories of facilities out there. There are  
22 communities that are seeing major growth right now  
23 that are being impacted in terms of capacity and  
24 infrastructure's ability to accommodate, not just  
25 the growth within the towns, but the growth from

septic systems, man camps, trailer courts, and  
everything that are outside the town.

Then there are another ten that are seeing interesting development, but yet the growth itself really hasn't happened yet, and the impact to infrastructure isn't there yet; and then there's a few facilities that really don't see the growth and may not see the growth.

MS. BUCKLIN-SANCHEZ: Paul, can I interrupt and ask you a question? It's Karen. What are the three communities that you don't expect significant growth, and why?

MR. LaVIGNE: I think they're just far enough away at this time, and they don't see any. I'd have to look through my notes. Can I get back with you on that?

MS. BUCKLIN-SANCHEZ: Yes. I would appreciate it, if you would. Then I guess another question is -- you just alluded to it briefly, and I bet you will more in your presentation, but there is a difference between where the man camps are and the actual municipal facilities sometimes. So I'm curious to see what you're going to say about the overlap there.

MR. LaVIGNE: Sure. If I don't answer

1 the question --

2 MS. BUCKLIN-SANCHEZ: I'll keep it in  
3 here.

4 MR. KILBREATH: And if he doesn't I'll  
5 get to it.

6 MR. LaVIGNE: My presentation here is  
7 focused on the municipal impacts, and then Steve  
8 is going to talk about essentially everything  
9 else, the trailer courts and that, but I thought I  
10 would just kind of maybe briefly touch on some of  
11 the systems that I visited when I was out there.

12 Sidney is probably the largest  
13 problematic issue right now in that region. It's  
14 pretty close to Williston. They've got industrial  
15 development; until recently were accepting septage  
16 which really overwhelmed their system. They've  
17 got three hotels either just being completed or in  
18 construction with another one in the works. Major  
19 subdivisions all the way around.

20 Steve shared with me a draft report from  
21 a contract planner out there, and essentially  
22 Sidney is committed to 2600 population equivalent  
23 right now, and they've got a system that really  
24 can't handle that. It is an old system. It was  
25 built in 1959 or 1960. It is marginally working

1 in a manner other than what was approved.

2 But they have hired an engineer.

3 They're in the planning process for major capital  
4 improvements project. They shut the door on any  
5 septage, which created its own set of problems.

6 After I left, they had a 40 acre cell that turned  
7 completely black and went septic, so at that point  
8 they decided not to accept septage. But they were  
9 getting 40,000 gallons a week or more septage in a  
10 facultative lagoon, which DEQ doesn't recommend  
11 really accepting any septage in a facultative  
12 lagoon.

13 Then Culbertson -- and this is pretty  
14 typical throughout these major impacted group here  
15 -- there is no housing available; and if there is  
16 housing for rent or whatever, it might have six,  
17 eight, ten people in it. They are having  
18 subdivisions proposed within their city  
19 boundaries, man camps within city boundaries.

20 They completed planning on a new lagoon  
21 system right before this growth happened, so they  
22 got funding and everything for what they had  
23 planned, so now it's a different story. The  
24 design engineer really doesn't know where he's at  
25 or what to do.

1           Bainville is really interesting because,  
2           again, no housing; a ton of growth pressure; but  
3           they just built a system, and it is already at  
4           capacity. School population has doubled; no place  
5           to put teachers.

6           Then Glendive is a little further away,  
7           and I would say not in the heart of things, but  
8           it's still seeing pressure, and a lot of it is  
9           commercial and industrial stuff, along with  
10          housing. But there is trailer courts that have  
11          been there since the last oil boom that have been  
12          vacant and now opening; existing trailer courts  
13          that were marginally functional, and are still  
14          continuing in an expanded capacity. Industrial  
15          development.

16          And here is a real indication of what's  
17          going on in terms of development pressures. As I  
18          was riding around with the public works director,  
19          he took me by a lot, a commercial lot, industrial  
20          lot, a three acre lot that they couldn't sell two  
21          years ago for \$9,000, just sold for \$300,000 this  
22          year. So speculative growth and buying up lots  
23          all over the place is very common in many of these  
24          towns.

25          Glendive, though, for other reasons is

1 designing a new mechanical system that they may  
2 build something to accept septage, so that could  
3 be a help, but it is not really in the prime area  
4 where all of the man camps and all the other stuff  
5 is, so it would be quite a haul for a septic  
6 pumper to haul down there several times a day.

7 MS. BUCKLIN-SANCHEZ: Paul, can I ask  
8 another question. This is Karen. Are any  
9 communities -- I mean the idea is the users should  
10 pay for the facility, but the problem is you don't  
11 know how many users you're going to have in six  
12 months, and then you don't know if they're still  
13 going be there in ten years or twenty years, which  
14 is the term of most loans, twenty years.

15 So has any community pursued maybe two  
16 kind of treatments plants, one your regular  
17 facultative lagoon for the community, and trying  
18 to estimate that, and then a separate septage  
19 facility that could be taken down in ten years or  
20 when it is not needed anymore?

21 MR. LaVIGNE: People are just starting  
22 to think about that. We've had a conference call  
23 with the City of Sidney and -- whatever that  
24 county is -- Richland County Commissioners, and  
25 they are kind of talking about something like

1 that, exploring options. But this has all  
2 happened so fast. Everyone is behind the curve  
3 right now.

4 And in my humble opinion, the answer is  
5 to try to keep those separate, as you suggested.  
6 I mean why should the cities pay for what's going  
7 on outside of the city.

8 MS. BUCKLIN-SANCHEZ: To save the  
9 sanitarians from quitting their jobs and leaving.  
10 That's why.

11 MR. LaVIGNE: So I'll kind of touch on a  
12 little bit of this as I summarize. I just have  
13 some general comments.

14 MS. BUCKLIN-SANCHEZ: I'm sorry. I'm  
15 overly excited about this, but not in a good way,  
16 but concerned.

17 MR. LaVIGNE: Right. Absolutely. In  
18 the kind of second category, I just gave a couple  
19 of examples here. Baker, there is an 800 person  
20 man camp or person camp -- whatever you want to  
21 call it -- proposed in Baker, just outside Baker,  
22 and this is actually for I think a gas pipeline,  
23 so not directly related, but similar.

24 Plentywood is a great example. All of  
25 the lots have been purchased, even though the

1 growth really isn't there yet. You just see this  
2 time and time again. People have gone in and  
3 purchased all of the lots, all of the rental  
4 houses they bought -- or rented out, or any houses  
5 that are available, they bought and are renting it  
6 out. So it's pretty alarming.

7 And in some cases, like Plentywood, the  
8 engineer was hired, so they're kind of moving in  
9 the right direction. But they might be okay  
10 because the growth really hasn't happened yet.

11 In Savage, they needed to do something  
12 anyway, and that's kind of what we're seeing is  
13 really the system is so old out there that  
14 sometimes those things are working and sometimes  
15 they're not, but it is really old infrastructure.

16 So just generally, there's just major  
17 growth anywhere near Williston, so the further out  
18 you go from Williston, probably the less acute it  
19 is right now.

20 Old systems, as far as like trying to  
21 fund improvements, you have really small  
22 population bases. So these projects are going to  
23 be extremely expensive, and user rates, the  
24 average user rate right now in Montana for  
25 wastewater is maybe mid thirties. If they were



1 just to go through the normal funding pathway,  
2 with a few grants and some loans, I just don't  
3 know if these projects would be affordable.

4 As these communities -- and a lot of  
5 them don't accept septage, and some are and some  
6 aren't. But even now, even if they didn't close  
7 the door on septage, septage disposal is a  
8 critical problem. You've got man camps, trailer  
9 courts everywhere, a lot of pump and haul sort of  
10 stuff. That septage is going somewhere now. It  
11 is probably not legal, in my opinion. Steve will  
12 talk a little bit more about that.

13 Retaining Public Works employees, you  
14 mentioned keeping the county sanitarians. It is  
15 very difficult to do. When I visited Culbertson,  
16 they said -- I think the Department of  
17 Transportation has a little facility there.  
18 They've lost all their employees to the oilfield.  
19 They hired five new guys, and they all quit within  
20 a week to go to the oilfield. There's no place to  
21 put anybody.

22 In Culbertson, they have seven teachers  
23 retiring this year. And there is no housing for  
24 the -- let alone the increase in students that  
25 will be coming. There's no place for housing.

1           Sidney has subdivided school property  
2           and put trailers on it to try to accommodate new  
3           teachers.

4           And typically what we've seen for the  
5           most part is that wastewater capacity is or will  
6           govern the growth of these communities. And then  
7           you come to the two big controversial questions.  
8           How big do we build the infrastructure based on  
9           speculative growth, and how long will the boom  
10          last? Do we take out a loan for twenty years when  
11          the boom may not last that long? So it is a big  
12          complicated mess.

13          That's all I brought with me for the  
14          little briefing here, but I'm open for any  
15          questions.

16          MS. BUCKLIN-SANCHEZ: Well, if you don't  
17          mind, can I ask one more? This is Karen. What is  
18          North Dakota doing?

19          MR. LaVIGNE: Well, what they did  
20          apparently, for one thing, I think they stopped  
21          pump and haul stuff for awhile. They put a  
22          moratorium on some of that stuff, which further  
23          created more of a problem for us, because like I  
24          say, it is going somewhere.

25          But they developed a state funding pool

1 of money, I guess from oil money, and I don't know  
2 how many millions of dollars it is or whatever,  
3 but they're using state money to pay for oil  
4 impacted infrastructure.

5 MS. BUCKLIN-SANCHEZ: I'm from North  
6 Dakota, so I heard about that.

7 MR. BAHR: Paul, Bill Bahr. One of the  
8 things that we noticed from technology from North  
9 Dakota was some package type plants, and then  
10 water is actually ending up back being injected  
11 potentially into the wells. So there is some man  
12 camp relief out there through a type of treatment  
13 technology, but we're not seeing them comply with  
14 proposed communities at this time in Montana.  
15 That's all I wanted to add to that.

16 MS. BUCKLIN-SANCHEZ: So something like  
17 you would use in the military that you haul there,  
18 and set up it up and run it?

19 MR. BAHR: Yeah, the man camps aren't  
20 meant to be permanent, houses on skids, so they'll  
21 just disappear, too.

22 MR. LaVIGNE: I believe it is happening,  
23 and then certainly some of these communities are  
24 interested in doing this, is using their treated  
25 effluent to sell to the oil company for fracking

1 purposes. But what North Dakota did is they said,  
2 "Well, we'll only approve that as a disposal  
3 mechanism if you have a long term contract with  
4 the oil companies, or the fracking companies."

5 MS. WILLIAMS: This is Kathleen. Can I  
6 ask a question? I'm having a little trouble  
7 hearing with some of the background noise in the  
8 room there, but two questions. One -- (inaudible)  
9 -- would say that it's being injected into the  
10 wells? And then since -- what do we know about  
11 illegal dumping out on the ground that I keep  
12 hearing about? What is the scale of that?

13 MR. LaVIGNE: Kathleen, I don't think we  
14 know the magnitude of that issue because we don't  
15 know where it is all coming from. We can't really  
16 do the math on it because we don't know how big  
17 the source is. But just doing the math on what we  
18 know in the area, and who is accepting septage and  
19 who isn't, it is going somewhere, beyond probably  
20 what's approved. But I don't think, Kathleen, we  
21 know -- we don't have any details of illicit  
22 illegal dumping.

23 MS. WILLIAMS: There is some kind of  
24 noise from the --

25 MR. LaVIGNE: We hear it, too. I don't

1 know where it's coming from.

2 MS. BUCKLIN-SANCHEZ: If anybody is on a  
3 cell phone, you could mute it.

4 MR. LaVIGNE: Kathleen, you had asked  
5 about injection?

6 MS. WILLIAMS: Right.

7 MR. LaVIGNE: I don't have any  
8 information on what they're doing in North Dakota  
9 with regard to that.

10 MS. WILLIAMS: Someone would say that --  
11 (inaudible) -- human waste is -- (inaudible) --  
12 oil wells. No?

13 MR. LaVIGNE: Not that I know of. I  
14 think it is treated waste that may be injected in  
15 North Dakota, but not here in Montana that we know  
16 of. There is a potential to demand for -- Well,  
17 Bainville asked us to look into the possibility of  
18 them selling their treated wastewater to the  
19 fracking companies, but we don't know of anyone  
20 that's doing that right now.

21 MS. WILLIAMS: I think I heard some of  
22 that, but --

23 MR. LaVIGNE: I don't know what the  
24 noise is, Kathleen. It is not in this room.

25 UNKNOWN SPEAKER: Somebody's cell phone

1 is breaking up, I think.

2 CHAIRMAN SELCH: Someone just did  
3 something that helped out a lot.

4 MR. LaVIGNE: Kathleen, we've just heard  
5 rumors with no details that some of the treated  
6 wastewater is being used for fracking in North  
7 Dakota. Not in Montana, that we know of.

8 CHAIRMAN SELCH: Are you still there,  
9 Kathleen?

10 (No response)

11 CHAIRMAN SELCH: Anyone on the phone  
12 still?

13 MS. WILLIAMS: I am.

14 MR. LaVIGNE: Any other questions?

15 MR. WENDLAND: The interference has  
16 quit.

17 CHAIRMAN SELCH: Does anyone have any  
18 other questions? We have still got Steve  
19 Kilbreath to follow up his presentation here.

20 MS. NEUMAN: Stevie Neuman. I guess my  
21 question would be: Is the State of Montana  
22 looking at using some of the oil -- the \$60  
23 million that they get every year to help the  
24 communities with this?

25 MR. LaVIGNE: That I can't answer. We

63  
talked to the Mayor of Sidney, and he's been  
working on a couple bills, one of which I think is  
aimed at that.

MS. NEUMAN: It is a little late.

MR. LaVIGNE: Kind of, but --

MS. NEUMAN: But I guess it is going to come across the northern tier as well, so we need to be planning ahead.

MR. LaVIGNE: Exactly. That's the hard part, is the growth is there now. Even if the oil drilling isn't really focused in Montana, we're seeing the fallout.

MS. WILLIAMS: This is Kathleen. I think there are some legislative proposals in the works, and we tried to do something last session, but just up from the urban areas, just couldn't get any traction with some of the proposals. So I think they need to emerge from eastern Montana and be coordinated together, and I know of at least a couple that are moving forward.

MR. LaVIGNE: Right. It is my understanding that one is aimed at State money, and the other is aimed at federal royalties or something. So federal and State.

MS. WILLIAMS: I don't have --

1 (inaudible) -- and in fact, I've been encouraging  
2 the Legislature to try and do something before the  
3 session starts to see if we can not have 14  
4 different proposals that are all really complex  
5 that we have to try and sort out in ninety days.  
6 So we'll see.

7 CHAIRMAN SELCH: Any more questions for  
8 Paul right now?

9 (No response)

10 CHAIRMAN SELCH: Paul, if you would be  
11 able to stick around if you have any more come up  
12 here, and we'll move on to Steve's presentation.

13 MR. KILBREATH: Good morning. My name  
14 is Steve Kilbreath. Most of you know me from the  
15 Subdivision Program. I was the Subdivision  
16 Program Manager for seven years. And I have  
17 recently taken a job in the Director's Office  
18 being an oil and gas coordinator position. So for  
19 me being from the Subdivision Program, I get a new  
20 phone number, and I get a new email address. It  
21 is kind of like witness protection. So I'm  
22 getting a fresh start.

23 What I'm going to talk about today is  
24 development and growth, and some of the things  
25 that we've seen in the public water and



1 subdivision program, and it touches on a lot of  
2 your questions, Karen, it touches on some of the  
3 stuff that Kathleen is talking about.

4 There is a multitude of issues going on  
5 out east, and the main thing that's happening is  
6 the development of the horizontal drilling and  
7 hydraulic fracturing has opened up and enhanced  
8 oil production out of formations that you couldn't  
9 deal with before, because you'd have a vertical  
10 penetration into a tight formation, and you  
11 wouldn't get much oil out.

12 Today they're drilling 9,000 to 10,000  
13 feet vertically, they're turning horizontally, and  
14 drilling two miles horizontally, and then they're  
15 fracturing, hydraulically fracturing the  
16 formation, and injecting sand or ceramic beads  
17 into the formation.

18 And the fracturing is pretty much  
19 bounded by the top and bottom units of the  
20 formation, by the geology, but it extends 500 to  
21 1,000 feet laterally. So each vertical drill site  
22 will have two to four horizontal holes drilled off  
23 of it that are all two miles in length. So you're  
24 getting lots of production out of these wells, and  
25 you've got wells spaced on two mile intervals.

1           So with this development, there comes a  
2 whole influx of people, and the people have to  
3 live someplace, and they're living in all kinds of  
4 strange things that DEQ hasn't really seen a lot  
5 of in the past.

6           Let's talk quickly about the slide right  
7 now of where the horizontal drilling is happening.  
8 And right now in the last two years in that  
9 northeast corner of the state, Sheridan, Richland,  
10 Roosevelt, Daniels County has been the bulk of the  
11 drilling, and there has been the bulk of the  
12 production there.

13           Of interest is you see some red dots  
14 around Fergus County, and Petroleum County, and  
15 Mussellshell County. There's horizontal drilling  
16 activity into Bakken equivalent stratigraphy in  
17 that area, and there have been some wells drilled  
18 in the Big Snowy Mountains, and these rocks that  
19 sit right on top of the Madison limestone.

20           Madison limestone is one of the most  
21 important recently extensive aquifers, so there's  
22 a lot of concern in the central part of the state  
23 about water quality associated with fracking.  
24 There has been quite a bit of drilling up along  
25 the Front. It's been mainly on reservation lands

1 to date, but the bulk of the private land that's  
2 leased up in there is horizontal well activity  
3 along the Rocky Mountain Front.

4 Right now, the Rocky Mountain Front, and  
5 Central Montana, Fergus, Mussellshell, etc., are  
6 kind of a big science experiment. The  
7 stratigraphy is there. They're doing the  
8 drilling. They're getting some production. Time  
9 will tell what that production will do and what it  
10 will look like. Time will tell whether or not  
11 we'll see the kind of growth activities in those  
12 areas that we've seen out east.

13 We have a large influx of people coming  
14 into eastern Montana to work in the oil industry,  
15 and these people are living in trailer courts, old  
16 trailer courts, new trailer courts, trailer courts  
17 connected to city systems, and trailer courts not  
18 connected to city systems.

19 We're seeing lots of RV parks. RV parks  
20 are springing up everywhere. As you drive from  
21 Glendive to Sidney, you start seeing, one, two,  
22 three RV's showing up in people's yards, and you  
23 can tell you're closer to Sidney because the  
24 closer you get to Sidney, the larger the number  
25 gets. When you're down on the Glendive side, you

1 see one or two, and as you get down towards  
2 Sidney, you see twenty or thirty, so the closer  
3 you get to Sidney, the more RV's there are.

4 The picture in the bottom right is just  
5 on the outskirts of Sidney. It's the Sunrise  
6 Motel. The Sunrise Motel has approximately 100  
7 RV's, thirty mobile homes, fifty motel rooms, on a  
8 four acre tract of land.

9 The other thing that we're seeing is  
10 we're seeing work camps, and you guys all use the  
11 word "man camps." Man camps and work camps are  
12 synonymous. "Work camp" is defined in statute and  
13 rule, and a work camp is an employer/employee  
14 provided housing. Everything else you'd probably  
15 want to call a man camp. But a work camp has an  
16 employer/employee relationship.

17 The work camp, this work camp in  
18 Culbertson is supplied by one of the drilling  
19 companies, and their employees live there, and  
20 their employees are fed and housed, their laundry  
21 is done, everything taken care of. The  
22 employer/employee relationship thing plays a very  
23 important part when we'll talk about rules here in  
24 a minute.

25 So here is a man camp or work camp in

1 Roosevelt County. This is a new one. It's at  
2 Flat Lake. It's four miles from North Dakota and  
3 four miles from Canada. If you're from that part  
4 the world, Karen, you know where it is. It is way  
5 up in the corner.

6 These things are modular. They bring  
7 them in, and they're just all modular, they're on  
8 skids. They come on in trucks. They set them off  
9 with cranes. They move them around. They drop in  
10 prebuilt sidewalks, prebuilt decking. They have  
11 sleeping units. They have commissary units.  
12 They'll have multiple units that hook together,  
13 and they'll have all the dining and kitchen  
14 facilities in there. They're cute little places,  
15 multiple rooms.

16 There is a new term that I have learned  
17 since I've been dealing with work camps, and that  
18 is "hot bedding," and hot bedding is two folks  
19 sharing one room, day shift/night shift. I sleep  
20 and am in the room for twelve hours; you are in  
21 the room for twelve hours when I'm working. So  
22 these places are an abundance of people.

23 The other interesting thing that we're  
24 finding out about these things is style of  
25 wastewater. Fifty gallons a bed is what's being

1 generated for wastewater, and it is five to six  
2 hundred milligrams BOD, and 80 to 100 milligrams  
3 nitrogen, so it's twice to three times the  
4 strength of residential waste that would be going  
5 into, say, the City of Helena wastewater treatment  
6 plant. So that creates its own unique problem.

7 We have truck parking facilities that  
8 we're seeing. People come in and say, "I want to  
9 build a facility for my employees, and I want to  
10 park trucks at it because I'm a trucking company;  
11 and I want to build a building that has toilets,  
12 showers, eating facilities, and laundry."

13 And we say, "Okay. That's weird. We've  
14 never heard of a truck parking facility in our  
15 rules, and it doesn't fit." But if you have 25  
16 people 60 days out of the year, you're a public  
17 system.

18 And so we've been approving several of  
19 these truck parking facilities as public water and  
20 public wastewater facilities. The only problem is  
21 -- This is the 350 truck parking facility in  
22 Sidney. The only problem is overnight they morph  
23 into this. People don't want to really live in  
24 their trucks, and they turn into RV parks.

25 And the RV parks are something that is

1 regulated by both the Subdivision and Platting Act  
2 at the local government level, and the Sanitation  
3 and Subdivision Act at DEQ. So there's a  
4 difference between a truck park and an RV park.

5 And the thing that we find out there is  
6 there is fine lines. You draw a line, and you  
7 morph or change around those very simply and very  
8 easily.

9 We have two sets of rules we deal with  
10 at DEQ. We deal with the Public Water Supply Act,  
11 and if you serve 25 people 60 days out of the  
12 year, we regulate you, and review and approve you  
13 as a public water supply or system, or public  
14 waste water system; one of the things that falls  
15 into the definition of a subdivision, we regulate  
16 you under the Subdivision Act.

17 So under the Subdivision Act, creating  
18 space for rent or lease is critical. So if you  
19 are creating a work camp that is a true work camp,  
20 that's an employer/employee relationship, you're  
21 not creating space for the public, so you're not a  
22 subdivision. We would review you for water and  
23 waste water. The County doesn't get to review you  
24 under their Platting Act requirements, and nobody  
25 looks at the storm water runoff from them. So

1 interesting.

2 But on the scheme of things, the true  
3 work camps aren't the issue. The true work camps  
4 have money behind them. It costs Sangel  
5 (phonetic) \$200 a day to have a person stay in one  
6 of those work camps. These camps are funded.  
7 They have money. They're doing things correctly.  
8 It is the other stuff, the RV parks, etc.

9 So for water, we're seeing most of these  
10 facilities drill wells. It is simple enough to  
11 drill exempt wells, treat them to a certain level,  
12 serve water to the people. We're seeing onsite  
13 wastewater systems being proposed. We're seeing a  
14 lot of pump and haul being proposed.

15 In North Dakota, Target Logistics is one  
16 of the biggest work camp companies that's there.  
17 They have I think probably 6,000 beds in North  
18 Dakota today, and they have their own mechanical  
19 biological nutrient reducing wastewater treatment  
20 facility attached to this work camp that goes to a  
21 storage pond.

22 And so the wastewater goes out, goes  
23 through the treatment, goes into the storage pond.  
24 The trucks back up to the storage pond and buy  
25 frack water, and that water is used in the



1 industry, so it is a nice cycle. I don't think  
2 we've seen the reuse that much in Montana. As  
3 bigger work camps develop, I think we'll see some  
4 of that.

5 Community challenges. Paul talked about  
6 community challenges. Rapid unexpected growth.  
7 The town of Sidney will go from 5,000 people a few  
8 years ago to 10,000 people. Aging infrastructure.  
9 The Sidney lagoon was built when I was seven years  
10 old, so that's got to be aging infrastructure.

11 Systems at or near capacity. I'm not  
12 sure. I don't think there's anybody that's near  
13 capacity. I think everybody is probably over  
14 capacity. Here today, gone tomorrow. How do you  
15 plan? How do you plan from a money perspective?  
16 How do you plan from a growth perspective?

17 You've got a temporary work force  
18 housing that's here today, and you've got  
19 permanent work force housing, and you've got long  
20 term residential housing. And long term  
21 residential housing and permanent work force  
22 housing has a process through grants, and loans,  
23 and PERs that can happen and take time.

24 Temporary work force housing can't.  
25 There has to be a funding mechanism created to

1 deal with temporary work force housing because it  
2 is here today, and it is an impact today.

3 The Public Works Director in Sidney,  
4 when he said, "Oh, my God. We've killed our  
5 lagoon," I asked him, I said, "Jeff, how many  
6 loads of septage were you taking?," and he said,  
7 "20,000 gallons." And I said, "A week?," and he  
8 said, "A day."

9 And so the RV parks that have sprung up,  
10 their gray water is going on the ground. They're  
11 sucking the black water out. So the stuff they're  
12 taking to the lagoons and are dumping is probably  
13 -- I wouldn't even want to venture a guess as to  
14 what strength waste it is. Super, super hot  
15 loads. And Sidney came close to killing their  
16 lagoon.

17 Certified water operators. DEQ  
18 certifies water and wastewater operators. The  
19 communities pay them \$15, \$20 an hour to be a  
20 water operator. They can make \$120,000 a year  
21 driving a water truck if they have a CDL. So  
22 there is a real shortage of operators out there.

23 My son is a Fish and Game warden, and he  
24 had a friend who was a warden in Sidney who was  
25 making \$40,000 a year as a game warden. He now

1 makes \$130,000 a year doing security on well sites  
2 in North Dakota. So there is lots of money out  
3 there.

4 Regulatory, increasing regulatory  
5 burdens; lowering limits on surface water  
6 discharge permits; new rules and regulations for  
7 the Safe Drinking Water Act; those are all coming  
8 along.

9 We have lots of community challenges.  
10 This is the picture. I mentioned the Sunrise  
11 Motel and RV Park. This is the back side of the  
12 Sunrise Motel and RV Park, and that green spot in  
13 the foreground, that is a sewage treatment lagoon,  
14 and that does have 100 RV's, thirty mobile homes,  
15 and fifty motel rooms, and a restaurant connected  
16 to that. That is slated to be fixed this summer.

17 The county of Richland is extending a  
18 sewer main to this part of town to pick this up to  
19 put this into the Sidney city lagoon. Oops. The  
20 city lagoon has no capacity. Community  
21 challenges.

22 MS. NEUMAN: Is there an opportunity  
23 that the oil well companies could help foot the  
24 bill?

25 MR. KILBREATH: That's one of the things

1 we're going to explore, and I don't know how you  
2 get there.

3 MS. NEUMAN: State law.

4 MR. KILBREATH: Well, maybe the  
5 Legislature could get there, yes.

6 We have things out there that we call  
7 zombie systems. This was a trailer court in 1979  
8 and 1980, and it had thirty units in it. The oil  
9 boom went away. It became a beet field. The oil  
10 boom came back, and the trailers came back. So  
11 you see things changing through time. We have  
12 zombie -- another example of zombie systems.

13 This is Sidney Circle One and Two.  
14 Sidney Circle One and Two were approved in 1979,  
15 and they were approved for a public water and a  
16 public wastewater system, and 120 housing units.  
17 There is currently about 35 out there.

18 The developer went bankrupt, the bank  
19 took back the water and the sewer system. The  
20 water system got built for fifty, the sewer system  
21 got built for 25. The County took the land back  
22 for taxes. The people that have been living out  
23 there for thirty years are running the water and  
24 the waste water system. The County sold the back  
25 tax lots to developers, and the developers are

1     pounding on the doors to try to develop these  
2     lots, and there is no infrastructure to develop.

3             This is a common theme out there because  
4     there is at least five of these we're working with  
5     that went from last boom, to nothing, to this  
6     boom. And the interesting part is the counties  
7     sold the lots back taxes to the developers.

8             So what's DEQ doing? We've got an  
9     enforcement presence in eastern Montana. We've  
10    been out for a week with Enforcement. We went out  
11    to investigate 13 complaints, and we came back  
12    with 40 new ones. We're developing an enforcement  
13    strategy.

14            We're doing timely and consistent review  
15    of subdivisions and public water supply review,  
16    and those are all being done in our Billings  
17    office by Matt Wade. He's running an eight to ten  
18    day turn around on his plan and spec review.

19            In the last two years, there has been  
20    approximately 100 submittals from those four  
21    counties. In the prior twenty years there were  
22    approximately ten. That kind of thing. The  
23    growth is just phenomenal.

24            We have been putting Matt Wade from our  
25    Billings office in Sidney two days a month to hold

1 office and talk to people. Our public water  
2 supply field inspection staff has been going out  
3 and doing water system inspections and technical  
4 assistance inspections. Our SRF guys have gone  
5 out and done technical assistance work on  
6 wastewater treatment systems.

7 We've held community meetings. I was  
8 the poor dumb guy that stood in Culbertson and  
9 said, "Now I understand why," the conceptual idea  
10 that it's easier to drive from Culbertson to  
11 Helena than Helena to Culbertson exists. It is a  
12 long ways from here. And those people out there  
13 aren't used to seeing us from here, and when you  
14 go, it is real important. They appreciate it.

15 We've recently hired an oil and gas  
16 development coordinator whose job is developing as  
17 we speak.

18 So we have a lot of things that are  
19 going on out there; there's a lot of issues going  
20 on out there. There is funding issues that the  
21 Legislature is going to have to address; there is  
22 funding issues that exist today where there is  
23 money that goes to the counties, and money that  
24 goes to the cities, and the counties have way more  
25 money than the cities.

1           There is funding issues with -- and  
2 Kathleen might be able to speak better to this  
3 than me -- but there is funding issues that there  
4 is a tax holiday for the oil companies for the  
5 first 18 months of production, and the Bakken  
6 wells are really big producers early, and then  
7 they slide off.

8           There has got to be a funding mechanism  
9 developed that is quick, that follows some of the  
10 pathway that we have today, but bypasses a lot of  
11 the times. There has got to be funding stuff that  
12 happens very, very quick, because it is there and  
13 it is there now.

14           The Sidney example is classic. We think  
15 that they were built for about 70 to 100 people;  
16 they have about 260 more that they have approved  
17 in the last two years to connect to the system,  
18 and they have developers standing in line to come  
19 in. We put a halt on any new approvals for  
20 Sidney. And Jenny and I are going to be hopefully  
21 in Sidney in two weeks with the Richland County  
22 Commission and the City Commission figuring out  
23 how to move forward.

24           Lots of issues, and right now Sidney is  
25 the big poster child for all the problems of

1 eastern Montana, but I think there is a long list  
2 of people of other communities that are just  
3 waiting.

4 MS. BUCKLIN-SANCHEZ: This is Karen. I  
5 have a comment, and you both have talked about  
6 this, but I just want to emphasize. It's one  
7 thing to find the money to build the  
8 infrastructure, but it is another thing to get the  
9 O&M money, the money to run the facilities, the  
10 money to pay the water and wastewater operators,  
11 the money to keep public works directors, and  
12 especially the money for the counties to keep the  
13 sanitarians in place, because the sanitarians, to  
14 me, it seems like a really critical component.

15 MR. KILBREATH: Right now the  
16 sanitarians are Jeff Havens in Glendive. Jeff is  
17 relatively new and green. He's well experienced,  
18 but he's from like Chicago, and he's suddenly  
19 finding there's a difference between Chicago and  
20 Glendive. Kelly Logan is in Richland County, and  
21 Kelly is going to retire suddenly. Ron Smith is  
22 in Roosevelt County, and he's 72 or 74 years old  
23 and in poor health. Cam Shipp is in Daniels and  
24 Sheridan and Valley County, and he's young, and  
25 strong, and can't do it all.



1           So it is a great point, and if you hire  
2 a sanitarian to go work out there, you have to  
3 give them a house because they can't have anyplace  
4 to live. Richland County is talking about  
5 building county apartments. The school district  
6 in Sidney is building housing units for teachers.

7           So it's a huge, huge issue, of how do  
8 you keep people around there, how do you pay them  
9 and have them maintain.

10           MR. BAHR: Steve, Bill Bahr, again. Can  
11 I have one more comment? It kind of relates back  
12 to Paul's comment about the septage and where it  
13 goes.

14           When the Sidney problem occurred, we  
15 were working with them, talking to them about what  
16 to do to fix it, a few things, and they said no  
17 to septage. So where does it go? I checked with  
18 the Permitting Program where they have septage.  
19 Land ap. sites are approved through DEQ. They had  
20 had no applications for any land application sites  
21 at that time. And they would be willing to speed  
22 up that review, but there is still a 30 comment  
23 period.

24           MR. KILBREATH: The people have to step  
25 up and ask for land aps.

1 MR. BAHR: So that also affects the  
2 sanitarians, because they typically go out and  
3 review those sites, and the County approve those  
4 sites as well, so that's --

5 MR. KILBREATH: And the septage pumpers  
6 are hauling to wherever they'll take, or wherever  
7 they can get rid of, and one of the pumpers even  
8 has reported that he's bought a whole bunch of 500  
9 gallon poly barrels that are something to do with  
10 the oil business, and he's building a storage  
11 facility on site, 500 gallon barrel at a time  
12 waiting for a solution.

13 So in my mind and in Paul's mind -- and  
14 this is very odd when we see things similarly --  
15 the temporary work force housing and this septage  
16 issue should be separated from the communities.  
17 It impacts the community situation hugely, and it  
18 should be separated. It's almost like we need a  
19 couple of regional septage dumping handling  
20 facilities out there that need to be built last  
21 year.

22 MS. BUCKLIN-SANCHEZ: It sounds like we  
23 need a magic bottle with a genie in it.

24 MR. TYLER: Kathleen? This is Dude --

25 MS. WILLIAMS: We need to keep thinking

1 about these things in November when we all go and  
2 vote.

3 MR. KILBREATH: I told you that there  
4 was like three or four of the legislators out  
5 there that are really working hard on funding  
6 bills, and looking at it for what's going to go on  
7 out there. Senator Brenden and Matt Rosendale  
8 (phonetic), they're all putting their heads  
9 together to try and figure out how we work on  
10 these things.

11 CHAIRMAN SELCH: Is there any other  
12 questions or comments from the folks on the phone?

13 MR. TYLER: This is Dude. This is very  
14 interesting, and I reiterate my suggestion that we  
15 have a November meeting in Sidney, Montana. No  
16 matter how much people laugh, I think it would be  
17 fun to go out there.

18 MS. BUCKLIN-SANCHEZ: In tents?

19 MR. TYLER: We'll camp.

20 CHAIRMAN SELCH: Dude, you must have  
21 seen this coming, and must have purchased some  
22 land out there.

23 MR. TYLER: All too late.

24 MR. KILBREATH: They've got two new  
25 motels open in Sidney, and a third one is

1 scheduled to open soon; and if you want to stay at  
2 the new Best Western in Sidney, it's \$179 a night.

3 CHAIRMAN SELCH: Thanks, Paul and Steve.  
4 That was really interesting.

5 MR. KILBREATH: Maybe we can come back  
6 and talk about fracking when we get a little  
7 further into this.

8 CHAIRMAN SELCH: I think that will  
9 definitely be happening. Thank you guys. That  
10 was great. Did we have any other public comment  
11 from anyone?

12 (No response)

13 CHAIRMAN SELCH: So hearing that, I  
14 guess we'll just talk about agenda items for our  
15 next meeting, which is August 24th. Does anyone  
16 have any agenda items that they can think of at  
17 this point this early on?

18 MS. STEINMETZ: I do know that we're  
19 going to bring DEQ12, the nutrient aquatic life  
20 standards. That one will be coming up for sure in  
21 August. I am not aware of any others.

22 MS. CHAMBERS: The Water Protection  
23 Bureau will probably, if nothing else, will be at  
24 least a briefing item, but probably request for  
25 initiation for rulemaking for the CAFO portion of

1 Subchapter 13, as Tom mentioned. We broke that  
2 chapter up into two parts, and that will probably  
3 come forward in the August meeting.

4 CHAIRMAN SELCH: If anyone has anything  
5 else, be sure to send it over to Amy or myself,  
6 and we'll --

7 MR. TYLER: Trevor, this is Dude. I  
8 wonder if it would be appropriate for the council  
9 to draft a resolution of -- (inaudible) --  
10 Bukantis, and send it to the Governor.

11 CHAIRMAN SELCH: You broke up there.  
12 Could you say that again?

13 MR. TYLER: I think it would be  
14 appropriate for us to have a Council wide  
15 resolution of thanks to Bob Bukantis, and would so  
16 move that we do so. And I don't know what we do  
17 with it other than to forward it on to Bob and  
18 perhaps the Governor as well.

19 CHAIRMAN SELCH: Absolutely. We'll look  
20 into that, and I'll work with Amy on getting that  
21 put together.

22 So again, if anyone has any other agenda  
23 items, just be sure to shoot those along, and  
24 we'll plan on -- it looks like we've got for sure  
25 a couple of items, so we'll plan on meeting

1 together definitely on the 24th unless we hear  
2 something else comes up. So with that, any other  
3 comments?

4 MS. WILLIAMS: This is Kathleen. I just  
5 commend the DEQ staff and leadership for creating  
6 that position where you're really trying to get a  
7 comprehensive handle on the development out in the  
8 east. This group has urged DEQ to really try and  
9 get out in front, even though that continues to be  
10 a challenge, and I just appreciate their effort to  
11 kind of rearrange and really try and be proactive.  
12 So thanks to them.

13 CHAIRMAN SELCH: Absolutely.

14 MR. TYLER: Agreed. Thank you,  
15 Kathleen.

16 CHAIRMAN SELCH: Anything else from  
17 anyone?

18 (No response)

19 MS. BUCKLIN-SANCHEZ: Motion to adjourn.

20 CHAIRMAN SELCH: Second. We're  
21 adjourned.

22 (The proceedings were concluded at 12:06 p.m. )

23 \* \* \* \* \*

## C E R T I F I C A T E

STATE OF MONTANA

)

: SS.

COUNTY OF LEWIS &amp; CLARK

)

I, LAURIE CRUTCHER, RPR, Court Reporter,  
Notary Public in and for the County of Lewis &  
Clark, State of Montana, do hereby certify:

That the proceedings were taken before me at  
the time and place herein named; that the  
proceedings were reported by me in shorthand and  
transcribed using computer-aided transcription,  
and that the foregoing - 86 - pages contain a true  
record of the proceedings to the best of my  
ability.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my notarial seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
LAURIE CRUTCHER, RPR

Court Reporter - Notary Public

My commission expires

March 12, 2016.

<p><b>\$</b></p> <p>\$1.50 6:16 \$120,000 74:20 \$130,000 75:1 \$15 74:19 \$179 84:2 \$2,600 6:15 \$20 74:19 \$200 72:5 \$280 6:15 \$3.50 12:25 \$300,000 53:21 \$4.25 13:1 \$4.40 6:16 \$40,000 74:25 \$60 62:22 \$9,000 53:21</p> <p><b>1</b></p> <p>1 22:16, 26:15, 26:18, 26:19, 26:23, 27:5, 27:9 1,000 65:21 1.8 11:3 10 27:25, 28:25 10,000 65:12, 73:8 100 68:6, 70:2, 75:14, 77:20, 79:15 100-to-one 30:4, 30:5 10:00 1:12 11 21:23, 27:25, 28:2, 28:5, 28:6 111 1:8 1192 1:22 12 21:24, 22:2, 28:12, 87:22 120 76:16 121 36:17 12:06 86:22 13 21:8, 22:3, 22:16, 30:21, 33:5, 77:11, 85:1 1304 22:25 1310 23:8, 23:23, 25:15 1310(1)(g)</p>	<p>23:14 1322 24:1, 25:18 1322(b) 26:15 14 22:4, 30:21, 64:3 15,000 11:1 1520 1:9 17.30 18:16 18 37:14, 79:5 1959 51:25 1960 51:25 1974 22:7 1977 30:23 1979 30:23, 31:11, 32:6, 76:7, 76:14 1980 76:8 1987 30:4</p> <p><b>2</b></p> <p>2 26:18 2.1 11:18, 11:19 20,000 74:7 2000 28:16 2003 32:6 2005 31:23 2008 22:18, 35:17 2009 12:2, 12:2 2011 12:6, 22:1 2012 1:11, 32:7, 32:13, 87:17 2016 87:22 22 30:19, 42:6, 49:15 22nd 43:8 23 30:19 24th 84:15, 86:1 25 42:6, 70:15, 71:11, 76:21 260 79:16 2600 51:22 280 36:22 29 1:11 2A 26:18, 28:15, 28:15 2B 26:18, 28:21 2C 26:18, 27:17 2D 27:25</p>	<p>2E 27:24 2F 28:4</p> <p><b>3</b></p> <p>3 23:7 30 19:15, 81:22 35 76:17 350 70:21 367 8:15 39 49:11</p> <p><b>4</b></p> <p>4 26:15 40 52:6, 77:12 40,000 52:9 406 1:24 442-8262 1:24 45 43:7</p> <p><b>5</b></p> <p>5 27:9 5,000 73:7 500 65:20, 82:8, 82:11 59624 1:23</p> <p><b>6</b></p> <p>6 27:10, 27:10 6,000 72:17 6.7 11:4 60 38:23, 70:16, 71:11</p> <p><b>7</b></p> <p>7 27:18 70 79:15 72 80:22 74 80:22 75 31:12 75-5-401 24:5</p> <p><b>8</b></p> <p>8 27:18, 30:3, 30:8 80 70:2 800 55:19 86 87:12 8th 17:17</p>	<p><b>9</b></p> <p>9 27:18, 27:24, 28:24 9,000 65:12 90 31:12 9th 17:16</p> <p><b>A</b></p> <p>A-1 38:8 a.m 1:12 ability 49:24, 87:14 able 2:10, 16:22, 64:11, 79:2 absent 2:9 Absolutely 55:17, 85:19, 86:13 abundance 69:22 accept 52:8, 54:2, 57:5 acceptance 12:13 accepting 51:15, 52:11, 60:18 access 13:14, 36:24 accommodate 49:24, 58:2 achieve 43:25 acre 52:6, 53:20, 68:8 acres 49:12 across 45:9, 63:7 Act 23:16, 25:7, 26:9, 30:14, 71:1, 71:3, 71:10, 71:16, 71:17, 71:24, 75:7 action 4:3, 4:19, 18:8, 20:23 activities 6:9, 67:11 activity 14:6, 49:17, 66:16, 67:2 actual 50:22 acute 30:1, 30:5, 30:6, 56:18 add 22:7,</p>	<p>59:15 addition 23:12, 27:6 address 27:16, 64:20, 78:21 addressed 14:4, 24:10 adjourn 86:19 adjourned 86:21 administers 26:8 Administrative 36:23 adopt 22:22, 22:22 adopted 18:20, 29:3, 29:7, 29:14, 29:16, 30:3, 32:8 adopting 26:11, 32:3, 38:2 adoption 20:8 advanced 38:25 Advisory 1:4, 22:14 affect 26:1 affects 82:1 affixed 87:16 affordable 57:3 ag 6:16, 14:2, 15:19 agency 37:20 agenda 2:25, 3:18, 3:21, 19:10, 47:14, 84:14, 84:16, 85:22 aggregator 17:2 aggregators 8:2 aging 73:8, 73:10 Agreed 86:14 agreement 44:6, 44:6 agricultural 39:18, 39:20, 39:24, 40:3 ahead 20:6, 33:21, 41:7, 41:12, 63:8 aimed 63:3, 63:22, 63:23</p>	<p>alarming 56:6 allocation 6:2, 6:24, 15:17, 15:17, 15:20 allocations 5:21, 6:17, 6:21, 15:11 allow 13:5 allows 8:11, 8:25 alluded 50:19 alone 18:21, 57:24 already 24:10, 53:3 alternative 8:13, 36:2 although 48:2, 48:4 amendment 21:7 amendments 5:7 amount 19:23, 44:10 Amy 3:16, 4:9, 41:5, 85:5, 85:20 and/or 18:23 answered 4:4 anticipate 19:4, 37:5, 45:23 anymore 54:20 anyplace 81:3 anytime 25:8 anyway 56:12 ap 81:19 apartments 81:5 apologize 2:12, 21:10 apparent 13:6 apparently 58:20 appearance 35:8 Appendix 9:8, 9:18, 10:18, 36:18 applicable 9:25, 27:7, 30:23, 30:24 applicant 9:9, 26:1, 26:23, 29:12, 30:20,</p>
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